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Application No. 10/805,272
Docket No. 740124-183REMARKS

In support of the Amendment After Final which is to be entered in accordance with applicant's RCE request, appended hereto is a Declaration Under 37 CFR 1.132 of Eberhard Rauschnabel, an engineer working in the field of forming processes for a company unrelated to the assignee of the present application, information about which can be found from their website www.ifutec.de. In view of the evidence presented by way of this declaration the actions and remarks presented in the Amendment After Final filed August 5, 2005, further consideration of this application is hereby requested.

In particular, this declaration supports applicant's position that the disclosure that the magnetic forming technology used in accordance with present invention may be "MagnetoPuls' from Magnet-Physik Dr. Steingroever GmbH of Cologne, Germany" inherently teaches a process in which the parts are not subjected to thermal effects or surface damage, and that parts joined by magnetic pulse forming are inherently physically different from those joined by welding, brazing or press fitting.

Accordingly, since, as noted in applicant's Amendment After Final, MPEP § 2163.07(a) states:

By disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory or advantage, even though it says nothing explicit concerning it. The application may later be amended to recite the function, theory or advantage without introducing prohibited new matter. *In re Reynolds*, 443 F.2d 384, 170 USPQ 94 (CCPA 1971); *In re Smythe*, 480 F. 2d 1376, 178 USPQ 279 (CCPA 1973).

and since, as also noted, it is well established patent law that "35 USC § 112 does not require a specific teaching of that which is already known to one of ordinary," *Case v. CPC International, Inc.*, 221 USPQ 196, 201 (Fed. Cir. 1984), the language added to the specification and claims in the Amendment After Final is not new matter, being inherently supported by the original disclosure.

The declaration submitted herewith also supports the positions taken with respect to the patentability of the present invention over the prior art since the declarant has not only established the physical difference of a product as claimed having parts joined by magnetic pulse forming, but also provides evidence as to the fact that the use of magnetic pulse joining

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and the advantages thereof were unknown in the glow plug art prior to the present invention. Thus, this evidence combined with the statements quoted from MPEP § 2113 and from the case of the case of *In re Hallman*, 210 USPQ 609, 611 (CCPA 1981) in the Amendment After Final, makes it clear that the subject matter of the claims on file here cannot properly be considered to have been rendered obvious by the disclosure of the Bailey patent, so that the rejection based on the Bailey patent should be withdrawn and that the same is true for the rejection based upon the Hausner et al. patent.

While this application should now be in condition for allowance, in the event that any issues should remain after consideration of this response which could be addressed through discussions with the undersigned, then the Examiner is requested to contact the undersigned by telephone for that purpose. In this regard, the Examiner's attention is directed to the new correspondence address and telephone number indicated below and on the accompanying Change of Address notice.

Respectfully submitted,

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